

REMARKS

Applicant submits this paper in response to the Office Action dated January 3, 2011. Claims 1-19 have been previously canceled. Claims 20-41 were previously added. Claims 20, 32 and 38 have been amended. Excluding the amendments to claims 20, 32 and 38 to overcome informalities noted by the Examiner, support for the amendments made to these claims may be found, for example, in paragraph [0018]. No claims have been canceled or added by way of this response. Thus, claims 20-41 are currently pending and presented for examination. Applicant respectfully requests reconsideration and allowance of the pending claims in view of the foregoing amendments and the following remarks.

Objections to the Claims:

Claims 20, 32 and 38 have been amended to correct the informalities noted by the Examiner. Accordingly, Applicant respectfully requests withdrawal of the objection of these claims.

Response to Rejections Under Section 103:

The pending claims stand rejected under 35 U.S.C. §103(a) as being obvious over Kruk in view of various secondary references, as well as Applicant's Own Admission (AOA) in view of various secondary references. Applicant respectfully traverses.

The following are quotation from MPEP 2143 (section V and section VI):

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.

Currently, at least four prior art references are combined to justify the rejection of the claims. Such a number strongly suggests that this invention is non-obvious. Furthermore, the Examiner's combinations have modified the prior art invention making it unsatisfactory for its intended purpose, and/or changes the principle of operation. For example, Kruk discloses a

method of managing compliance with strategy business rules where the method includes storing procurement data concerning historical procurement events in a procurement data warehouse, storing one or more business compliance rules specifying conditions for a particular procurement event to be compliant, automatically analyzing a portion of the procurement data related to the particular procurement event to determine whether or not the particular procurement event is compliant according to the one or more business compliance rules, and automatically generating a visual output bases on whether or not the particular procurement event is determined compliant.

Based on the invention and purpose of Kruk, including an evaluation entity that further comprises a comparator to compare a reference value of a specific process parameter with an actual value of the process parameter and a multiplier configured to apportion a difference between the reference value and the actual value, an integrator configured to integrate a value provided by the multiplier over a time period, and a memory device configured to retain a difference between the reference value and the actual value prior to supplying the difference to the multiplier, wherein the evaluation entity is further provided a reference time, a currently determined time, and a percentage factor so that the at least one optimization entity produces an optimization value, an optimization value integrated over a time period, and a percentage of optimization applied to the process parameter per optimization entity when more than one optimization entity is utilized, would not only render the modified Kruk unsatisfactory for its intended purpose, but it would also change the principle of operation of Kruk. More specifically, the Examiner should now realize that adding these elements to the invention in Kruk results in an invention that likely results in an unworking invention for the intended purpose of Kruk.

Additionally, the Examiner claims that Honarver discloses “a memory device configured to retain.” However, this oversimplification omits key elements of the invention. More specifically, claim 20 recites, in part:

... a memory device configured to retain **a difference between the reference value and the actual value prior to supplying the difference to the multiplier**

Honarver does not disclose this claimed feature. Furthermore, none of the prior art cited by the Examiner discloses this specific feature.

The Examiner claims that Richards discloses "a multiplier configured to apportion a difference between, a value provided by the multiplier, prior to supplying the difference to the multiplier." This is yet another oversimplification which omits key elements of the invention not disclosed in any of the prior art cited by the Examiner. More specifically, claim 20 recites, in part:

... a multiplier configured to apportion **a difference between the reference value and the actual value**;

... a memory device configured to retain **a difference between the reference value and the actual value** prior to supplying the difference to the multiplier.

Richards does not disclose this claimed feature. Furthermore, none of the prior art cited by the Examiner discloses these features.

Applicant fails to comprehend how Bathurst is classified as an analogous art. Bathurst is for compositions which inhibit apoptosis, methods of making the compositions and uses thereof. does not disclose an absolute optimization value as suggested by the Examiner. There is not sufficient analogy between Applicant's invention and Bathurst to utilize Bathurst as prior art. The Examiner is reminded that from MPEP 2141.01(a):

The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. **>"Under the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the patent [or application at issue] can provide a reason for combining the elements in the manner claimed. " *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1397 (2007). Thus a reference in a field different from that of applicant's endeavor may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her invention as a whole.

Finally, claims 20, 32, and 38 have been amended to further define the invention by stating that the integrator has at least one input that is a percental factor by which a specific optimization entity exerts influence on the process parameter. Support for this further limitation is found in paragraph [0018].

The following is a quotation from MPEP 2143 which provides further support as to why this additional limitation should result in issuance of this application:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Since claims 21-31 depend from independent claim 20, and claims 33-37 depend from independent claim 32, and claims 39-41 depend from independent claim 38, in view of the remarks above, both the independent claims and these dependent claims are now allowable as well.

Conclusion:

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, Applicant respectfully requests that the Examiner reconsider the rejections and timely pass the application to allowance. All correspondence should continue to be directed to our below-listed address. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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By: Janet D. Hood
Janet D. Hood
Registration No. 61,142
(407) 736-4234

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830